The Hon'ble Sri Justice D.S.R.Varma

W.P.No.29811 of 1998

Dated:12th July,2006

Between:
N.Saibaba Naidu.

..Petitioner

and

The Municipal Corporation of Hyderabad,
Rep. By its Commissioner, Tank Bund,
Hyderabad. ..Respondent

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Oral order:-

Heard both sides.

Petitioner seeks a writ of mandamus to declare the action of the respondent in proposing to demolish and interfere with the structure in premises bearing No.6-3-1219/6/A, admeasuring 1200 square yards situate at Begumpet, Hyderabad, especially when he

submitted the application for regularisation of the alleged unauthorised structures as per G.O.Ms.No.419, Municipal Administration and Urban Development (W1) Department, dated 30.7.1998, as illegal and arbitrary and to direct the respondent not to demolish and interfere with the structures, possession and enjoyment of the above property, of the petitioner.

The grievance of the petitioner in this writ petition is that the respondent-Corporation is resorting to demolish the constructions made by him in the premises in question without following due process of law.

As could be seen from the counter-affidavit filed by the respondent-Municipal Corporation of Hyderabad, a notice under Section 461 of the Hyderabad Municipal Corporation Act,1955 (for brevity "the Act") was issued to the petitioner upon noticing certain deviations made by him in making construction, informing him to stop the construction work and also to produce the sanctioned plan for verification. Since the petitioner did not comply with the same, the respondent-Corporation issued another notice to the petitioner on 29.7.1992 under Section 452 of the Act calling upon him to show cause as to why the unauthorised constructions made by him should not be removed. The petitioner, instead of submitting reply to the said show cause notice, filed a suit in O.S.No.3001 of 1992 on the file of the IV Assistant Judge, City Civil Court, Hyderabad, and obtained interim injunction in I.A.No.743 of 1992. It appears, subsequently the petitioner filed two other suits, being O.S.No.233 of 1998 and 757 of 1998, on the file of the very-same court, and in I.A.No.238 of 1998 in O.S.No.757 of 1998 the court directed the petitioner not to proceed with further construction, and despite the said direction the petitioner proceeded with the construction.

From the above, it appears that the petitioner had already approached the civil court by filing three suits and it appears that those suits are pending, the stage or result of which is not forthcoming.

Having regard to the fact of filing of the civil suits by the petitioner, this writ petition cannot be maintained. Accordingly, the same is dismissed. It is needless to state that the order of interim stay granted by this Court earlier shall stand vacated. No costs.

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D.S.R.Varma,J

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